

## TEXT OF PROPOSED REGULATIONS

In the following, underline indicates new text, ~~strikethrough~~ indicates deleted text.

### Chapter 1. Rules and Regulations of Adult Operations and Programs

#### Article 1.5. DNA and Forensic Identification

##### Section 3025. Department of Justice DNA and Forensic Identification Database and Data Bank Program.

[Subsections 3025(a) through 3025(k) are unchanged]

Subsection 3025(l) is amended to read:

(l) If the use of reasonable force to obtain DNA includes a cell extraction, the extraction shall be videotaped. The videotaping shall depict all correctional personnel directly involved and the advisement to the inmate that the requisite specimen, sample or impressions is required. All incidents that required the use of reasonable force to obtain DNA samples shall be tracked and maintained by the institutional DNA coordinator and forwarded to the ~~A~~assistant director Secretary, Law Enforcement Investigative Unit (LEIU) Office of Correctional Safety.

[Subsection 3025(m) is unchanged]

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 295-300.3 and 5054, Penal Code.

### Subchapter 4. General Institution Regulations

#### Article 2. Security

##### Section 3291. Employee Law Enforcement and Peace Officer Personnel.

[Subsection 3291(a) is unchanged]

Subsections 3291(b) and (c) are amended to read:

(b) Peace Officer Personnel. Peace officers are departmental employees holding peace officer positions as defined by law or as designated by the Secretary of the California Department of Corrections and Rehabilitation (CDCR) ~~director of corrections~~. Non-peace officer employees temporarily assigned to perform only the administrative duties of positions held by peace officers shall not be designated as peace officers.

(c) The peace officer authority of employees is outlined in Penal Code (PC) sections 830.2(d)(1) and (2) and PC section 830.5. During state emergencies and activations of state mutual aid agreements, CDCR peace officer authority is provided in Government Code sections 8597, 8598 and 8698 ~~in (b) extends only to the authority necessary to perform the duties assigned to them, and as specifically authorized by the director in state emergency and mutual aid agreements. Employees designated in subsection~~

~~3291(b) are peace officers when performing the duties of their employment within this State, and retain that status outside this State when they are transporting prisoners or apprehending of prisoners who have escaped.~~

**[Sections 3291(d) through 3291(f) are unchanged]**

Note: Authority cited: Sections 830.5(f) and 5058, Penal Code. Reference: Sections 830.2(d), ~~and 830.5(a) and (b) and 5054~~, Penal Code. Sections 8597, 8598, and 8698, Government Code.

**Article 3. Escapes**

**Section 3296 is amended to read:**

**Section 3296. Escape Pursuit Plan.**

Each warden ~~and superintendent~~ must have in effect at all times a plan of operations for the reporting of escapes, and for the pursuit and apprehension of escapees. Each employee must be instructed in the general and special procedures that he or she is to follow. Such plans must be in writing and be reviewed annually by the warden ~~or superintendent~~.

~~Comment: Former DP-4302, escape pursuit plan.~~

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

**Article 4. Disorders and Emergencies**

**Section 3300 is amended to read:**

**Section 3300. Prevention of Disorders.**

It is the duty of every employee to do everything possible to prevent disorders. Each employee must be trained to be familiar with the procedures for handling disorders. Disorders and other emergencies must be reported to supervisory staff at the earliest possible moment. Whenever a disorder occurs, a prompt investigation will be made by the warden ~~or superintendent~~.

~~Comment: Former DP-4401, prevention of disorders.~~

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

**Section 3301 is amended to read:**

**~~3301. Disturbance Control Plan~~ Emergency Operations Plan.**

Each warden ~~or superintendent~~ must have in effect at all times an Emergency Operations Plan ~~a plan~~, approved by the Emergency Planning and Management Unit, to assist in the preparation for response to and recovery from "All Hazards" incidents. All

~~hazards incidents are defined as any natural or manmade disasters or accidents that may significantly disrupt institutional operations or programs. director, for meeting emergencies, such as riots, strikes, attacks upon inmates, visitors or staff, explosions or fires, suicides or attempted suicides, and accidental injuries to inmates or visitors or employees. This plan must include procedures for requesting assistance from outside the institution when circumstances warrant.~~

~~Comment: Former DP-4402, disturbance control plan.~~

~~Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.~~

**Section 3302 title and text are deleted, with the section number 3302 being reserved for future use.**

### **3302. ~~Emergency Preparedness Plan.~~ (Reserved)**

~~(a) Each warden and superintendent must have in effect at all times a plan approved by the director for meeting emergencies delineated and required by the California Emergency Services Act of 1970.~~

~~(b) This plan will include, as a minimum, emergency measures to be taken to prepare for and respond to the following types of emergency situations:~~

- ~~(1) War;~~
- ~~(2) Earthquakes;~~
- ~~(3) Seismic sea waves;~~
- ~~(4) Flood;~~
- ~~(5) Fire;~~
- ~~(6) Civil disturbances;~~
- ~~(7) Accident, transportation industrial, and;~~
- ~~(8) Pollution.~~

~~(c) A separate Employee Protection Plan will be developed in accordance with the California Emergency Services Act. Two copies of this plan will be attached to the emergency preparedness plan when that plan is submitted to the director for approval.~~

~~(d) Emergency preparedness plans and the employee protection plan will be revised and updated by the warden or superintendent and be submitted to the director for approval biennially.~~

## **Subchapter 5. Personnel**

### **Article 1. Wardens, Superintendents, Parole Region Administrators**

#### **3383. State of Emergency.**

(a) A state of emergency shall exist when the institution head or regional parole administrator/deputy director, Division of Adult Parole Operations (DAPO), temporarily suspends any nonessential operation, procedure, service or function, and the normal time limits or schedules for such activity in order to prevent, contain or control a disturbance.

**Existing subsection 3383(b) is renumbered 3383(c) and is unchanged.**

**New subsection 3383(b) is adopted to read:**

(b) The Assistant Secretary, Office of Correctional Safety, shall be contacted by any of the persons specified in section 3383(a), or their designee, when a state of emergency is declared.

(b) Approval of the Secretary or Secretary's designee is required when:

(1) A lockdown of all housing units/sub-facilities within a facility's security perimeter is to exceed 24 hours.

(2) A lockdown of fewer than all housing units/sub-facilities within a facility's security perimeter is to exceed 72 hours.

(3) The suspension of a facility's major program or operation is to exceed 72 hours; e.g., an academic or vocational program, visiting program, yard operation, or dining room operation.

**Existing subsections 3383(c) and (d) are renumbered 3383(d) and (e) respectively and are unchanged.**

(e) During a state of emergency the institution head or regional parole administrator/deputy director, DAPO, may authorize the postponement of nonessential administrative decisions, actions, and the normal time requirements for such decisions and actions as deemed necessary because of the emergency. This may include, but is not limited to, classification committee hearings, disciplinary proceedings, and the review and action on appeals.

(e) During a state of emergency, the cause and effect shall be constantly reviewed and evaluated by the institution head or regional parole administrator/deputy director, DAPO, through appropriate staff. The facility's affected areas, programs, and operations shall be returned to normal as soon as the institution head or regional parole administrator/deputy director, DAPO, determines that it is safe to do so. Upon termination of a state of emergency, the normal schedules and time frames for administrative decisions and actions pertaining to affected inmates will resume.

Note: Authority cited: Section 5058, Penal Code; and Section 11152, Government Code. Reference: Section 5054, Penal Code.

## **Article 2. Employees**

**Section 3397 is amended to read:**

### **3397. Emergencies.**

Regardless of an employee's class of service, in an emergency any employee must perform any service, including custodial functions, if so directed by the warden, ~~superintendent~~ or regional administrator or his or her delegate. At any time an employee is contacted by telephone or is otherwise informed of an emergency situation at the

institution or facility to which they are assigned, the employee must report without delay to the officer-in-charge.

~~Comment: Former DR-5208, duty in an emergency.~~

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.